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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/549,463	06/27/2006	Zhendong Mike Zhou	061300-0843	8357

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FOLEY & LARDNER LLP  
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EXAMINER
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FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

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04/29/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/549,463	<b>Applicant(s)</b> ZHOU ET AL.	
	<b>Examiner</b> Charles A. Fox	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,4 and 6-9 is/are allowed.
- 6) ☒ Claim(s) 2,5 and 10-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2010 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the device with a rotational member while the actuators are connected between the support surface and the riser as per claim 2.

The drawings are also objected to as they do not show the device with only one actuator between each segment of the device as in claim 1. One can not rely on ordinary skill in the art for a device that applicant is claiming to be novel. As such the drawings must be changed to reflect the invention as claimed.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 2,5,10-19 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 2 there is no support for having the device of claim 1 rotate as the riser is connected to the supports via hydraulic actuators Regarding claims 5 and 10 there is no structure disclosed on the translation mechanism. Claims 11-19 which depend from claim 10 are also rejected as being non-enabled as they contain all the limitations of the claims from which they depend. None of the non-enabled claims have been treated on the merits.

Claims 10-19 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. Regarding claims 10 and 11 the omitted elements are: the other 5 actuators for allowing the device to operate. At a minimum there are at least 6 actuators needed to perform the telescopic and pivotal actions claimed in claim 10. The device will not operate with only one actuator. The at least one element must be the minimal number of that element needed to make the device work. In this case at least six actuators. All dependent claims not addressed are rejected based upon their dependency on a rejected claim.

### ***Response to Amendment***

The amendments to the claims specification and drawings filed on February 20, 2010 have been entered into the record.

***Response to Arguments***

Applicant's arguments filed February 20, 2010 have been fully considered but they are not persuasive. Regarding the drawings showing an actuator coupled to the riser with a rotational element between as in claim 2 this is not shown in any of the figures. Applicant is clear in what coupled to means as to the function of their device and that is a direct coupling of one element to another. Claim 2 appears to be adding a second embodiment of the invention to a first embodiment. If not then there is an indefiniteness problem with claim 1 as structure is needed to make the coupling which is not in the claim, namely the rotatable structure. The enablement rejection stand and is hereby made final regarding claim 2.

Regarding claims 5 and 10 there is no enablement for the translational movement of the device. Claims 5 and 10 are directed to structural limitations of a movable coupling, which is not disclosed or shown in the drawings. All structure needed to build the device must be disclosed. The rejections of claims 5 and 10 are hereby made final , as well as any claims which depend from them. Contemplating the function of a device does not impart structure to the device, nor does a mere function without associated structure.

Regarding the new drawing objection this is caused by applicants argument where they are clear that the various segments of the device only have one actuator between then for pivotal movement which is not shown in the drawings.

Claims 10-19 are not considered on the merits due to enablement issues and indefiniteness issues due to the newly amended limitations.

***Allowable Subject Matter***

Claims 1,3,4 and 6-9 are allowed.

Applicant's arguments, filed February 20, 2010, with respect to all other issues have been fully considered and are persuasive. The rejections and objections have been withdrawn either due to amendments or in regards to claim 19 arguments.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

Art Unit: 3652

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Fox/  
Primary Examiner, Art Unit 3652